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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,946	02/06/2001	Hideo Kawahara	1232-4680	3252

27123 7590 08/23/2006

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EXAMINER

VIEAUX, GARY

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,946

Applicant(s)

KAWAHARA, HIDEO

Examiner

Gary C. Vieaux

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/26/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10, 12, 19, 21, 22 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 12, 19, 21, 22 and 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the
5 fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114,
and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the
previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on May 9, 2006, has been entered.

10

Information Disclosure Statement

The information disclosure statement (IDS) submitted on the following
date is in compliance with the provisions of 37 CFR 1.97 and is being considered
by the Examiner: July 21, 2006.

15 However, the Examiner notes that the Japanese Office Action, dated June
5, 2006, has not been considered, as it is not in the English language.

Amendment

The Amendment, filed July 26, 2006, has been received and made of
20 record. In response to the most recent Office Action, dated February 10, 2006,
claims 1, 12, 21, and 22 have been amended. Claims 2-9, 11, 13-18, 20, 23-26,
and 31-38 have been previously cancelled.

Response to Amendment

Regarding the objections to claims 21 and 22 involving informalities, the Examiner finds the amendments to eliminate the previously identified issues involving insufficient antecedent basis, and therefore the previous objections to
5 claims 21 and 22 are withdrawn.

Regarding the amendments to claims 21 and 22 as they relate to the previous 35 U.S.C. 112, first paragraph, rejections, the Examiner finds the amendments to eliminate the previously identified issues with the written description requirement.

10

Response to Arguments

Applicant's arguments filed April 6, 2006, filed in conjunction with the RCE dated May 9, 2006, have been fully considered. However, based on the 35 U.S.C. 112 rejections, infra, the amendments preclude examination of the claims
15 on their merits, and therefore, the related arguments are not persuasive.

Claim Objections

Claim 1 is objected to because of the following informalities: line 5 of the claim contains the incongruent punctuation "...unit; and;".

20 Appropriate correction is required.

CLAIM REJECTIONS***Claim Rejections - 35 USC § 112, first paragraph***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

5 The specification shall contain a written description of the invention, and of the manner and
process of making and using it, in such full, clear, concise, and exact terms as to enable any
person skilled in the art to which it pertains, or with which it is most nearly connected, to make
and use the same and shall set forth the best mode contemplated by the inventor of carrying
10 out his invention.

10 **Claims 1, 12, 21 and 22** are rejected under 35 U.S.C. 112, first
paragraph, as failing to comply with the written description requirement. The
claim(s) contains subject matter that was not described in the specification in
such a way as to reasonably convey to one skilled in the relevant art that the
15 inventor(s), at the time the application was filed, had possession of the claimed
invention. Independent claims 1, 12, 21, and 22 included language that employs
a histogram of a luminance distribution in conjunction with predetermined ranges.
However, the Specification was not found to include support for these limitations
employed in concert with one another. The closest interpretation involving any
20 “range” was found to exist with a different embodiment that did not employ a
histogram (third embodiment, Specification p.23-29.)

Claims 10, 19, and 27-30 are rejected under 35 U.S.C. 112, first
paragraph, as failing to comply with the written description requirement, based on
their dependence to rejected independent claims 1, 12, 21, and 22.

25

Claim Rejections - 35 USC § 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5

Claims 1, 12, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Additionally, independent claims 1, 12, 21, and 22 include indefinite language which generates multiple applications/interpretations of the terms “area” and “areas”, and therefore does not distinctly define the claimed subject matter. These include the plurality of areas from which the luminance signals are derived and an area of a histogram; an area which also is /can be confused with the magnitudes or blocks found within the histogram (Specification, p. 12-19.) Therefore, the metes and bounds of the claims cannot be readily ascertained.

Claims 10, 19, and 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, based on their dependence to rejected independent claims 1, 12, 21, and 22.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takagi (US 5,268,730) representing the US version of a Japanese
5 application, number 03-287239, submitted via applicant IDS dated July 21, 2006.

Takagi (US 5,309,193) representing the US version of a Japanese
application, number 03-131780, submitted via applicant IDS dated July 21, 2006.

Contact

10 Any inquiry concerning this communication or earlier communications from
the examiner should be directed to Gary C. Vieaux whose telephone number is
571-272-7318. The examiner can normally be reached on Monday - Friday,
8:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the
15 examiner's supervisor, NgocYen T. Vu can be reached on 571-272-7320. The
fax phone number for the organization where this application or proceeding is
assigned is 571-273-8300.

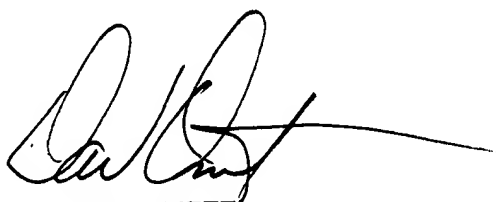
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- 5 Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-10 9199 (IN USA OR CANADA) or 571-272-1000.

Gary C. Vieaux
Examiner
Art Unit 2622

Gcv2

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal flourish extending to the right.

DAVID OMETZ
SUPERVISORY PATENT EXAMINER